

DEPARTMENT OF INDUSTRIAL RELATIONS

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

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INITIAL STATEMENT OF REASONS

Proposed Amendments to Sections 344.16 (Fee Schedule) and 344.18
(Amusement Ride Fee Schedule) of Title 8 of the California Code of Regulations

PROBLEM ADDRESSED AND SUMMARY

Pursuant to Labor Code sections 60.5 and 6308, the Division of Occupational Safety and Health ("the Division") of the Department of Industrial Relations is charged with the administration and enforcement of the provisions of the California Occupational Safety and Health Act, commencing with Labor Code section 6300, as well as other provisions of law impacting upon the health and safety of employees and the public in the State of California.

As part of its mandate, the Division regulates aspects of the operation, repair and inspection of both permanent amusement rides (rides which are installed in a fixed location or "Permanent ARs") and portable amusement rides (rides which are assembled and disassembled at different sites as part of a traveling attraction or "Portable ARs").

Pursuant to the Amusement Rides Safety Law (Labor Code sections 7908 through 7915,) the Division is charged with establishing and administering a state system for the permitting and inspection of Portable ARs. The Division is authorized to collect fees for the inspection of Portable ARs as it deems necessary to cover the actual cost it incurs in having the inspection performed by a Division safety engineer.

In addition, pursuant to the Permanent Amusement Ride Safety Inspection Program Law (Labor Code sections 7920 through 7932) the Division is charged with establishing and administering a state system for the inspection of Permanent ARs. The Division is authorized to adopt rules and regulations necessary for the administration of its Permanent AR program, and may fix and collect all fees necessary to cover its costs of administration.

Currently, both the Division's Permanent AR fee schedule (set forth in Title 8, Section 344.16) and its Portable AR fee schedule (set forth in Title 8, Section 344.18) are based on a calculated hourly rate of \$125.00 per hour. At the time the Division promulgated its existing amusement ride fee schedules, it calculated that it must charge \$125 per billed hour of its inspectors' time to adequately fund the amusement ride programs. That hourly rate is no longer sufficient to fully fund the programs. In fact, as of this date, both programs are running in deficit.

Thus, the purpose of this rulemaking (hereinafter “the Proposed Rulemaking”) is to increase both the Permanent AR and the Portable AR fees to reduce these deficits.

SPECIFIC PURPOSE OF ADOPTION/FACTUAL BASIS

Section 344.16 - Permanent Amusement Ride Fee Schedule.

To adequately fund its Permanent AR and Temporary AR programs, the Division has determined that it must charge an hourly rate of \$308.00 for inspections under both programs. The Division bases this \$308 hourly rate on its cost detail analysis set forth in the “Estimated Cost of Permanent and Portable Amusement Rides Units and the Hourly Inspection Fee Needed to Support the Programs”, attached hereto and incorporated herein by this reference as “Attachment A”. The costs reflected in Attachment A represent the combined costs to the Division of operating both of its amusement ride programs.

OTHER REQUIRED SHOWINGS - GOVERNMENT CODE 11346.2(b)(2)-(4)

Studies, Reports, or Documents Relied Upon

The Division relied on the cost analysis for its Permanent AR Program and its Portable AR Program in formulating the Proposed Rulemaking.

Reasonable Alternatives Considered

The Division has determined that no alternative considered would be more effective in carrying out the purpose that underlies the proposed action, or would be as effective as and less burdensome to affected small businesses than the proposed action. Moreover, the Division did not consider a performance standard as a reasonable alternative for a fee regulation.

Reasonable Alternatives That Would Lessen the Impact on Small Businesses

None.

Evidence Relied Upon to Support the Initial Determination That the Proposed Regulations Will Not Have a Significant Adverse Economic Impact on Business

The Proposed Rulemaking will not result in significant additional costs to private persons or businesses.

Permanent Amusement Rides: An inspection of a Permanent AR generally takes seven hours. Thus, with the current \$125 fee, the cost of inspecting one Permanent AR would be \$875. The cost of inspecting the 12 rides of an average park would be \$10,500, or (\$875 x 12 rides = \$10,500).

If the Division increases the existing hourly fee from \$125 to \$308, then the cost per inspection per ride would increase to \$2,156 (an increase of \$1,281). Thus, the cost of inspecting the 12 Permanent ARs in the average park would be \$25,872 (\$308 x 7 hours x 12 rides = \$25,872), reflecting an increase of \$15,372.

In addition to routine inspections, the Division also investigates accidents involving amusement rides. There will also be increased costs to parks due to fees charged for performing accident investigations. However, the Division cannot predict a firm per-park estimate of the increase in these fees, because the number of accidents varies from year to year and from park to park. Moreover, the amount of time needed to conduct an accident investigation depends on many factors, including the nature of the accident and the type of ride involved.

Portable Amusement Rides: The added cost to Portable AR owners/operators will be considerably less. An inspection of a Portable AR generally takes one or two hours. If the Division increases the existing hourly fee by \$183 (increasing from \$125 to \$308), then the increased cost per inspection per ride would be between \$183 and \$366. To the average owner/operator who controls six Portable ARs, the additional annual cost for inspections would be between \$1,098 and \$2,196 (\$183 increase x 1 hour x 6 rides = \$1,098; \$183 increase x 2 hours x 6 rides = \$2,196).

In the event of an accident, the owner or operator of a Portable AR will be required to pay the higher hourly fee for an accident investigation. The amount of the increase, as explained above, is not predictable. There will also be increased costs to parks if the owner or operator of a Portable AR fails to appear or be prepared for a scheduled inspection. However, parks may avoid such “lost time” fees by ensuring that rides and staff are ready for inspections when the Division inspector arrives on site.